

2009-2010 Regular Sessions

I N S E N A T E

January 9, 2009

Introduced by Sen. MARCELLINO -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

AN ACT to amend the vehicle and traffic law and the insurance law, in relation to prohibiting the writing, sending or reading of text messages on a mobile telephone while driving

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Paragraph (d) of subdivision 1 of section 1225-c of the  
2 vehicle and traffic law, as added by chapter 69 of the laws of 2001, is  
3 amended and a new paragraph (h) is added to read as follows:

4 (d) "Hand-held mobile telephone" shall mean a mobile telephone OR  
5 PORTABLE ELECTRONIC DEVICE with which a user engages in a call OR  
6 WRITES, SENDS OR READS A TEXT MESSAGE using at least one hand, PROVIDED  
7 THAT THE TERM "HAND-HELD MOBILE TELEPHONE" SHALL NOT INCLUDE  
8 VEHICLE-INTEGRATED VOICE-ACTIVATED DEVICES.

9 (H) "WRITE, SEND OR READ A TEXT MESSAGE" SHALL MEAN THE MANUAL ENTRY  
10 OR RETRIEVAL OF A TEXT-BASED MESSAGE COMMONLY REFERRED TO AS A TEXT  
11 MESSAGE, INSTANT MESSAGE, ELECTRONIC MESSAGE OR EMAIL, TO COMMUNICATE  
12 WITH ANY PERSON OR DEVICE.

13 S 2. Paragraph (a) of subdivision 2 and subdivision 3 of section  
14 1225-c of the vehicle and traffic law, as added by chapter 69 of the  
15 laws of 2001, are amended to read as follows:

16 (a) Except as otherwise provided in this section, no person shall  
17 operate a motor vehicle upon a public highway while using a mobile tele-  
18 phone OR PORTABLE ELECTRONIC DEVICE to engage in a call OR WRITE, SEND  
19 OR READ A TEXT MESSAGE while such vehicle is in motion.

20 3. Subdivision two of this section shall not apply to (a) the use of a  
21 mobile telephone OR PORTABLE ELECTRONIC DEVICE for the sole purpose of  
22 communicating with any of the following regarding an emergency situ-  
23 ation: an emergency response operator; a hospital, physician's office or  
24 health clinic; an ambulance company or corps; a fire department,

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 district or company; or a police department, (b) any of the following  
2 persons while in the performance of their official duties: a police  
3 officer or peace officer; a member of a fire department, district or  
4 company; or the operator of an authorized emergency vehicle as defined  
5 in section one hundred one of this chapter, or (c) the use of a hands-  
6 free mobile telephone.

7 S 3. Subdivision 4 of section 502 of the vehicle and traffic law is  
8 amended by adding a new paragraph (c-3) to read as follows:

9 (C-3) "CELL PHONE SAFETY" COMPONENT. THE COMMISSIONER SHALL PROVIDE IN  
10 THE PRE-LICENSING COURSE, SET FORTH IN PARAGRAPH (B) OF THIS SUBDIVISION  
11 A MANDATORY COMPONENT IN THE "CELL PHONE SAFETY" COMPONENT AS A PREREQ-  
12 UISITE FOR OBTAINING A LICENSE TO OPERATE A MOTOR VEHICLE. THE PURPOSE  
13 OF THE COMPONENT IS TO EDUCATE PROSPECTIVE LICENSEES OF THE POTENTIAL  
14 DANGERS OF DRIVING WHILE USING A CELL PHONE. FOR THE PURPOSES OF THIS  
15 PARAGRAPH, "CELL PHONE" SHALL BE DEFINED AS A HAND-HELD MOBILE TELEPHONE  
16 WITH WHICH A USER ENGAGES A CALL OR WRITES, SENDS OR READS A TEXT-BASED  
17 COMMUNICATION USING AT LEAST ONE HAND AS DEFINED IN PARAGRAPH (H) OF  
18 SUBDIVISION ONE OF SECTION TWELVE HUNDRED TWENTY-FIVE-C OF THIS CHAPTER.  
19 THE COMMISSIONER SHALL ESTABLISH A CURRICULUM FOR SUCH "CELL PHONE SAFE-  
20 TY" COMPONENT WHICH SHALL INCLUDE, BUT NOT BE LIMITED TO, INFORMATION ON  
21 THE LAW RELATED TO DRIVING WHILE USING A CELL PHONE, THE PENALTIES FOR  
22 USING A CELL PHONE WHILE DRIVING AND THE POTENTIAL DANGERS OF DISTRACTED  
23 DRIVERS. IN DEVELOPING SUCH CURRICULUM, THE COMMISSIONER SHALL CONSULT  
24 WITH LAW ENFORCEMENT PERSONNEL, HIGHWAY SAFETY OFFICIALS AND ANY OTHER  
25 GROUP THE COMMISSIONER BELIEVES CAN CONTRIBUTE TO A COMPREHENSIVE STATE-  
26 MENT OF THE ISSUE.

27 S 4. Paragraphs (a), (b) and (d) of subdivision 4 of section 502 of  
28 the vehicle and traffic law, as amended by chapter 585 of the laws of  
29 2002, are amended to read as follows:

30 (a) (i) Upon submission of an application for a driver's license, the  
31 applicant shall be required to take and pass a test, or submit evidence  
32 of passage of a test, with respect to the laws relating to traffic, the  
33 laws relating to driving while ability is impaired and while intoxicat-  
34 ed, under the overpowering influence of "Road Rage", [or] "Work Zone  
35 Safety" awareness as defined by the commissioner OR "CELL PHONE SAFETY"  
36 AS DEFINED BY THE COMMISSIONER, the ability to read and comprehend traf-  
37 fic signs and symbols and such other matters as the commissioner may  
38 prescribe, and to satisfactorily complete a course prescribed by the  
39 commissioner of not less than four hours and not more than five hours,  
40 consisting of classroom driver training and highway safety instruction  
41 or the equivalent thereof. Such test shall include at least seven writ-  
42 ten questions concerning the effects of consumption of alcohol or drugs  
43 on the ability of a person to operate a motor vehicle and the legal and  
44 financial consequences resulting from violations of section eleven  
45 hundred ninety-two of this chapter, prohibiting the operation of a motor  
46 vehicle while under the influence of alcohol or drugs. Such test shall  
47 include one or more written questions concerning the devastating effects  
48 of "Road Rage" on the ability of a person to operate a motor vehicle and  
49 the legal and financial consequences resulting from assaulting, threat-  
50 ening or interfering with the lawful conduct of another person legally  
51 using the roadway. Such test shall include one or more questions  
52 concerning the potential dangers to persons and equipment resulting from  
53 the unsafe operation of a motor vehicle in a work zone. SUCH TEST SHALL  
54 INCLUDE ONE OR MORE WRITTEN QUESTIONS RELATING TO THE HAZARDS AND LEGAL  
55 CONSEQUENCES OF DRIVING WHILE USING A CELL PHONE. Such test shall be  
56 administered by the commissioner. The commissioner shall cause the

1 applicant to take a vision test and a test for color blindness. Upon  
2 passage of the vision test, the application may be accepted and the  
3 application fee shall be payable.

4 (ii) The commissioner shall promulgate rules and regulations estab-  
5 lishing eligibility standards for the taking and passing of knowledge  
6 tests in other than written form.

7 (b) Upon successful completion of the requirements set forth in para-  
8 graph (a) of this subdivision which shall include an alcohol and drug  
9 education component as described in paragraph (c) of this subdivision, a  
10 "Road Rage" awareness component as described in paragraph (c-1) of this  
11 subdivision and a "Work Zone Safety" awareness component as described in  
12 paragraph (c-2) of this subdivision AND A "CELL PHONE SAFETY" COMPONENT  
13 AS DESCRIBED IN PARAGRAPH (C-3) OF THIS SUBDIVISION, the commissioner  
14 shall cause the applicant to take a road test in a representative vehi-  
15 cle of a type prescribed by the commissioner which shall be appropriate  
16 to the type of license for which application is made, except that the  
17 commissioner may waive the road test requirements for certain classes of  
18 applicants. The commissioner shall have the power to establish a program  
19 to allow persons other than employees of the department to conduct road  
20 tests in representative vehicles when such tests are required for appli-  
21 cants to obtain a class A, B or C license. If she chooses to do so, she  
22 shall set forth her reasons in writing and conduct a public hearing on  
23 the matter. She shall only establish such a program after holding the  
24 public hearing.

25 (d) The commissioner shall make available for distribution upon regis-  
26 tration at each location where the pre-licensing course will be given,  
27 instructional handbooks outlining the content of the entire curriculum  
28 of the pre-licensing course including the information required to be  
29 included in the course pursuant to paragraphs (c), (c-1) [and], (c-2)  
30 AND (C-3) of this subdivision. The commissioner shall also provide for  
31 the additional training of the instructors necessary for the competent  
32 instruction of the alcohol and drug education and "Road Rage" awareness  
33 [and], "Work Zone Safety" awareness, AND "CELL PHONE SAFETY" subject  
34 matters of the pre-licensing course.

35 S 5. Subsection (a) of section 2336 of the insurance law, as amended  
36 by chapter 751 of the laws of 2005, is amended to read as follows:

37 (a) Any schedule of rates or rating plan for motor vehicle liability  
38 and collision insurance submitted to the superintendent shall provide  
39 for an appropriate reduction in premium charges for any insured for a  
40 three year period after successfully completing a motor vehicle accident  
41 prevention course, known as the national safety council's defensive  
42 driving course, or any driver improvement course approved by the depart-  
43 ment of motor vehicles as being equivalent to the national safety coun-  
44 cil's defensive driving course, provided that, except as provided in  
45 article twelve-C of the vehicle and traffic law, there shall be no  
46 reduction in premiums for a self instruction defensive driving course or  
47 a course which does not provide for actual classroom instruction for a  
48 minimum number of hours as determined by the department of motor vehi-  
49 cles. Such reduction in premium charges shall be subsequently modified  
50 to the extent appropriate, based upon analysis of loss experience  
51 statistics and other relevant factors. All such accident prevention  
52 courses shall be monitored by the department of motor vehicles and shall  
53 include components of instruction in "Road Rage" awareness [and], in  
54 "Work Zone Safety" awareness AND "CELL PHONE SAFETY" as defined by the  
55 commissioner of motor vehicles. The provisions of this section shall not

1 apply to attendance at a program pursuant to article twenty-one of the  
2 vehicle and traffic law as a result of any traffic infraction.

3 S 6. Subsection (a) of section 2336 of the insurance law, as amended  
4 by chapter 585 of the laws of 2002, is amended to read as follows:

5 (a) Any schedule of rates or rating plan for motor vehicle liability  
6 and collision insurance submitted to the superintendent shall provide  
7 for an appropriate reduction in premium charges for any insured for a  
8 three year period after successfully completing a motor vehicle accident  
9 prevention course, known as the national safety council's defensive  
10 driving course, or any driver improvement course approved by the depart-  
11 ment of motor vehicles as being equivalent to the national safety coun-  
12 cil's defensive driving course, provided that in either event there  
13 shall be no reduction in premiums for a self instruction defensive driv-  
14 ing course or a course which does not provide for actual classroom  
15 instruction for a minimum number of hours as determined by the depart-  
16 ment of motor vehicles. Such reduction in premium charges shall be  
17 subsequently modified to the extent appropriate, based upon analysis of  
18 loss experience statistics and other relevant factors. All such accident  
19 prevention courses shall be monitored by the department of motor vehi-  
20 cles and shall include components of instruction in "Road Rage" aware-  
21 ness [and], in "Work Zone Safety" awareness AND "CELL PHONE SAFETY" as  
22 defined by the commissioner of motor vehicles. The provisions of this  
23 section shall not apply to attendance at a program pursuant to article  
24 twenty-one of the vehicle and traffic law as a result of any traffic  
25 infraction.

26 S 7. This act shall take effect on the one hundred eightieth day after  
27 it shall have become a law, provided that the amendments to subsection  
28 (a) of section 2336 of the insurance law made by section five of this  
29 act shall be subject to the expiration and reversion of such subsection  
30 as provided in section 5 of chapter 751 of the laws of 2005, as amended,  
31 when upon such date section six of this act shall take effect.